

JURISDICTION OVER PRIZES (INDIA)

*Exchange of notes at London June 10 and September 24, 1943, with
proclamation by the President of the United States*

Reciprocity proclaimed by the President of the United States November 28, 1943

Entered into force November 28, 1943

Expired at conclusion of World War II

59 Stat. 1709; Executive Agreement Series 489

The American Ambassador to the Secretary of State for Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA

London, June 10, 1943

No. 2719

SIR:

I have the honor to refer to the arrangement¹ made between the Government of the United Kingdom and the Government of the United States by which, in conformity with the provisions of Public Law 704 enacted by the Seventy-seventh Congress of the United States and approved August 18, 1942, the courts of the United States were permitted to exercise jurisdiction over prizes taken by United States armed forces and brought into the territorial waters of the United Kingdom and Sierra Leone. A copy of the Act in question is enclosed for your convenient reference.² The consent of the Government of the United Kingdom to this arrangement was notified to this Embassy by a note (No. W 13225/279/49) dated November 3, 1942.³

My Government now desires to obtain the consent of the Government of India to a similar arrangement with respect to prizes taken by United States armed forces and brought into the territorial jurisdiction of the Government of India. Permission is desired for special prize commissioners appointed by the district courts of the United States to exercise in India such powers and duties, in addition to those already prescribed for prize commissioners, as may be deemed necessary or proper for carrying out the purposes of Public

¹ Agreement of Oct. 1 and Nov. 3, 1942 (EAS 393), *ante*, p. 628.

² See 56 Stat. 746.

³ EAS 393, *ante*, p. 629.

Law 704. The duties of prize commissioners are set out in Title 34, U.S.C., Section 1138, which reads as follows:

"S 1138. Duties of prize commissioners. The prize commissioners, or one of them, shall receive from the prize master the documents and papers, and inventory thereof, and shall take the affidavit of the prize master required by section 1134 of this title, and shall forthwith take the testimony of the witnesses sent in, separate from each other, on interrogatories prescribed by the court, in the manner usual in prize courts; and the witnesses shall not be permitted to see the interrogatories, documents, or papers, or to consult with counsel, or with any persons interested without special authority from the court; and witnesses who have the rights of neutrals shall be discharged as soon as practicable. The prize commissioners shall also take depositions *de bene esse* of the prize crew and others, at the request of the district attorney, on interrogatories prescribed by the court. They shall also, as soon as any prize property comes within the district for adjudication, examine the same, and make an inventory thereof, founded on an actual examination, and report to the court whether any part of it is in a condition requiring immediate sale for the interests of all parties, and notify the district attorney thereof; and if it be necessary to the examination or making of the inventory that the cargo be unladen, they shall apply to the court for an order to the marshal to unlade the same, and shall, from time to time, report to the court anything relating to the condition of the property, or its custody or disposal, which may require any action by the court, but the custody of the property shall be in the marshal only. They shall also seasonably return into court, sealed and secured from inspection, the documents and papers which shall come to their hands, duly scheduled and numbered, and the other preparatory evidence, and the evidence taken *de bene esse*, and their own inventory of the prize property; and if the captured vessel, or any of its cargo or stores, are such as in their judgment may be useful to the United States in war, they shall report the same to the Secretary of the Navy."

My Government, upon the receipt from the Government of India of the consent required by Section 3 of Public Law 704, will take appropriate measures in accordance with Section 7 of the same Act to confer reciprocal privileges upon the Government of India with respect to prizes.

I shall be grateful if you will inform the Government of India of my Government's desire and request, on my Government's behalf, the necessary consent to the exercise of such powers by United States courts and by special

prize commissioners appointed by them within the territorial jurisdiction of the Government of India.

Accept, Sir, the renewed assurances of my highest consideration.

For the Ambassador:
H. FREEMAN MATTHEWS,
Minister-Counselor.

Enclosure—cited.

The Right Honorable
ANTHONY EDEN, M.C., M.P.,
*Secretary of State for Foreign Affairs,
Foreign Office, S. W. 1.*

The Secretary of State for Foreign Affairs to the American Ambassador

FOREIGN OFFICE, S.W. 1.
24th September, 1943

No. W 13056/3214/49

YOUR EXCELLENCY,

With reference to Your Excellency's note No. 2719 of the 10th June last, I have the honour to inform you that the Government of India agree to the proposal of the United States Government whereby the courts of the United States shall be permitted to exercise jurisdiction over prizes taken by the United States armed forces and brought into the territorial jurisdiction of the Government of India.

2. It is understood that the United States Government will take appropriate measures to confer reciprocal privileges upon the Government of India.

I have the honour to be, with the highest consideration,
Your Excellency's obedient Servant,

(For the Secretary of State)
J. H. Le ROUGETEL

His Excellency
The Honourable
JOHN G. WINANT,
*etc., etc., etc.,
1, Grosvenor Square, W.1.*

UNITED STATES PROCLAMATION ⁴

CAPTURE OF PRIZES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the act of August 18, 1942, 56 Stat. 746, contains in part the following provisions:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the district courts shall have original jurisdiction of all prizes captured during the present war on the high seas if said capture was made by authority of the United States or was adopted and ratified by the President of the United States and the prize was brought into the territorial waters of a cobelligerent or was taken or appropriated for the use of the United States on the high seas or in such territorial waters, including jurisdiction of all proceedings for the condemnation of such property taken as prize.

"Sec. 3. The jurisdiction of prizes brought into the territorial waters of a cobelligerent shall not be exercised under authority of this Act, nor shall prizes be taken or appropriated within such territorial waters for the use of the United States, unless the government having jurisdiction over such territorial waters consents to the exercise of such jurisdiction or to such taking or appropriation.

"Sec. 7. A cobelligerent of the United States which consents to the exercise of the jurisdiction herein conferred with respect to prizes of the United States brought into its territorial waters and to the taking or appropriation of such prizes within its territorial waters for the use of the United States shall be accorded, upon proclamation by the President of the United States, like privileges with respect to prizes captured under authority of such cobelligerent and brought into the territorial waters of the United States or taken or appropriated in the territorial waters of the United States for the use of such cobelligerent. Reciprocal recognition and full faith and credit shall be given to the jurisdiction acquired by courts of a cobelligerent hereunder and to all proceedings had or judgments rendered in exercise of such jurisdiction."

WHEREAS the Government of India, a cobelligerent, has consented to the exercise of the jurisdiction conferred by the said act with respect to prizes of

⁴ 57 Stat. 729.

the United States brought into the territorial waters of India and to the taking or appropriation of such prizes within the territorial waters of India for the use of the United States:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority vested in me by the said act of August 18, 1942, do proclaim that the Government of India shall be accorded like privileges with respect to prizes captured under authority of the said Government and brought into the territorial waters of the United States or taken or appropriated in the territorial waters of the United States for the use of the said Government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the city of Washington this 28th day of November, in the year of our Lord nineteen hundred and forty-three, and of the independence of the United States of America the one hundred and sixty-eighth.

FRANKLIN D. ROOSEVELT

By the President

CORDELL HULL

Secretary of State